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NNH-CV19-5052879-S	:	
	:	SUPERIOR COURT
ADAM CARMON	:	
	:	JUDICIAL DISTRICT OF NEW
v.	:	HAVEN
	:	
COMMISSIONER	:	
	:	
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NNH-CV20-6107902-S	:	
	:	SUPERIOR COURT
ADAM CARMON	:	
	:	JUDICIAL DISTRICT OF NEW
v.	:	HAVEN
	:	
STATE OF CONNECTICUT	:	
	:	
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**UNOPPOSED MOTION TO TERMINATE AUTOMATIC STAY OF  
THE COURT’S JUDGMENT VACATING PETITIONER’S CONVICTION**

Petitioner Adam Carmon (“Petitioner”) respectfully moves this Court to terminate the automatic stay of its order granting the petitions for writ of habeas corpus.<sup>1</sup> *See* R. App. P. 61-11(d)–(e); *see also* Order, NNH-CV20-6107902, Dkt. No. 208.00; Memorandum of Decision, NNH-CV20-6107902, Dkt. No. 208.50. Petitioner requests that, following termination of the stay, his case be transferred to and/or reinstated in the criminal court, New Haven, so that he may seek a bond hearing forthwith and dismissal of the charges against him. Counsel for Respondents the Commissioner of Correction and the State of Connecticut do not object to this motion.

Courts deciding motions to terminate automatic stays in habeas cases consider seven factors. *See Grant v. Warden*, No. CV174008949S, 2019 WL 3219350, at \*2-3 (Conn. Super.

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<sup>1</sup> Judgments and orders in Connecticut habeas corpus cases are automatically stayed until the time to file an appeal has expired. *See* R. App. P. 61-11(a).

**ORAL ARGUMENT NOT REQUESTED  
TESTIMONY NOT REQUIRED**

Ct. June 11, 2019); *see also* Order, *Wright v. Warden*, Docket No. CV-15-4006830-S, at 2-3 (Conn. Super. Ct. Jan. 11, 2020). Those factors are

(1) the likelihood that the appellant will prevail on appeal; (2) the irreparability of the injury to be suffered from immediate implementation of the order; (3) the effect of a stay upon other parties to the proceeding; (4) the public interest involved; (5) the possibility that the petitioner will flee the jurisdiction; (6) whether the petitioner poses a danger to the public; and (7) the state's interest in continuing custody and rehabilitation pending the final determination of the case. In rendering its oral decision terminating the stay in this case, this court listed the seven factors and concluded that the factors favored termination of the stay.

*Id.* at \*3 (citing *Griffin Hospital v. Commission of Hospitals & Health Care*, 196 Conn. 451 (1985); *Hilton v. Braunskill*, 481 U.S. 770 (1987)).

All the aforementioned factors favor terminating the automatic stay in this case. First, in the event the State appeals the Court's judgment, it is unlikely to succeed. The parties agreed upon the legal standards to be applied in deciding these matters,<sup>2</sup> and the Court correctly applied them in reaching its decision. Moreover, as the Court recognized in its thoughtful, thorough, and well-reasoned opinion, this case does not present a close call, such that it is likely the State would succeed on appeal, especially because the Court vacated the conviction on multiple grounds and under different burdens of proof. *See* Opinion at 48 ("How could anyone have confidence in a verdict of guilty in a case such as this?). Second, the irreparability of Mr. Carmon's injury—his continued unjust conviction and incarceration, which has been ongoing for more than 28 years—is manifestly obvious given the Court's ruling that his conviction lacks integrity. Third, the stay will have no effect on other parties to the proceeding because there are none. Fourth, the public interest strongly favors Mr. Carmon's immediate release, or at least returning him to the status of an accused, rather than, wrongly convicted person. Fifth, while

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<sup>2</sup> Moreover, the parties not only agree on the correct legal standards to be applied, they also agree as to much of the relevant factual record as evidenced by the State's stipulation that *over 40 items* of favorable evidence were suppressed. *See* PX 271 (Non-disclosure Stipulation).

release into the community can be considered in a separate bond hearing such that it is unnecessary for this Court to consider it now, this factor favors granting the stay as there is little likelihood Mr. Carmon will be retried and because he has every incentive to remain in the jurisdiction to witness the eventual dismissal of the charges against him. *See* Opinion at 48 (discussing the lack of evidence against Mr. Carmon in light of the trial record and new evidence) (“There is now no physical evidence tying the petitioner to the crime. There is no evidence that the petitioner had a motive to fire into the window at 810 Orchard Street. There is no evidence that he even knew the victims. Another individual, Arthur Brantley, did have a motive.”). Sixth, and relatedly, while the Court need not consider dangerousness at this time, the Court can be assured that Mr. Carmon poses no danger to the community. Mr. Carmon is now 50 years old and far removed from his former lifestyle and youthful immaturity, and he has proven his lack of dangerousness and rehabilitation in myriad ways, including a 20-year custodial history in which has not sustained a single disciplinary infraction and has received numerous positive reports from corrections officers. *See* Exhibit A (commutation exhibits).

Seventh and finally, the State cannot legitimately claim a compelling interest, rehabilitative or otherwise, in Mr. Carmon’s continued incarceration. To emphasize the Court’s question as to who could have continued confidence in Mr. Carmon’s conviction, both the prosecutor who signed Mr. Carmon’s arrest warrant and the lead detective who investigated the Taft homicide, each of whom testified in the Petitioner’s case at his recent trial, now recognize that Mr. Carmon ought to be released in light of the new evidentiary record. *See* Exhibit B (text message to counsel from former NHPD Sgt. Michael Sweeney); Exhibit C (letter in support of commutation from former Assistant State’s Attorney Cecilia Wiederhold). We remain hopeful that the State’s Attorney’s Office, having reviewed the Court’s decision, will soon agree.

For the foregoing reasons, and considering the State's lack of opposition to the relief sought herein, we move the Court to immediately vacate the automatic stay.

Dated: December 1, 2022

Respectfully submitted,

Of Counsel:

**THE PETITIONER,  
ADAM CARMON**

Kenneth Rosenthal  
Green & Sklarz LLC  
One Audubon Street, Third Floor  
New Haven, Connecticut 06511

Doug Lieb  
Kaufman Lieb Lebowitz & Frick LLP  
18 East 48th Street, Suite 802  
New York, New York 10016

Maura Barry Grinalds  
One Manhattan West  
New York, New York 10001

Katie Campbell\*  
Joseph Klemme\*  
Arnold & Porter Kaye Scholer LLP  
250 West 55th Street  
New York, New York 10019

*\* Appearing Pro Hac Vice*

BY: /s/ David S. Keenan  
Law Office of David Keenan  
152 West 57th Street, 8th Floor  
New York, New York 10019  
Tel. (347) 460-4857  
Juris No. 441652  
dkeenan@davidkeenanlaw.com

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**[PROPOSED] ORDER**

Having reviewed Petitioner Adam Carmon's unopposed Motion to Vacate Automatic Stay of the Court's Judgment, the Court hereby GRANTS the request and transfers this matter to criminal court, New Haven, so that a bond hearing may be promptly set.

BY THE COURT:

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The Honorable Jon M. Alander  
Dated: December 1, 2022

## **CERTIFICATION**

It is hereby certified that on December 1, 2022, a copy of the foregoing was delivered electronically to all attorneys and represented parties of record, and that written consent for electronic delivery was received from all attorneys and self-interested parties receiving electronic delivery, including:

Craig Nowak  
Senior Assistant State's Attorney  
Judicial District of New Haven  
235 Church Street  
New Haven, CT 06510  
Tel. (203) 789-7801  
Fax (203) 789-7849  
Juris No. 401804  
[craig.nowak@ct.gov](mailto:craig.nowak@ct.gov)

*Counsel for Deponent Anthony Little*  
Michael Brown  
Koch Garg & Brown LLP  
8 W. Main St., Suite 2-10  
Niantic, CT 06357  
[mike@kgb-law.com](mailto:mike@kgb-law.com)

/s/ David Keenan  
David Keenan